

## REMARKS

In light of the Examiner's comments, reconsideration of the application as amended is respectfully requested.

### A. Allowable Subject Matter

Applicant wishes to thank Examiner for signifying the allowable subject matter contained in claims 6, and 8-11. Consistent with the Examiner's observations, claims 6 and 8 have been rewritten to place them in independent form to remove dependence on a rejected base claim.

### B. Rejections under 35 U.S.C. § 102

The Examiner has rejected claims 1-4 as being anticipated by Gilbert, U.S. Patent no. 5,121,544, and claims 7 and 13 as being anticipated by Gringer, U.S. Patent no. 5,813,121. An invention is anticipated under § 102 if the same device, including all the claim limitations, is shown in a single prior art reference. *Richardson v. Suzuki Motor Co. Ltd.* 868 F.2d 1226, 9 USPQ2d 1913 (Fed. Cir. 1989). Every element of the claimed invention must be literally present, arranged as in the claim. *Perkin-Elmer Corp v. Computervision Corp.*, 732 F.2d 888, 894, 221 USPQ 669, 673 (Fed. Cir.), *cert. denied*, 469 U.S. 857 [ 225 USPQ 792 ] (1984); *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 771-72, 218 USPQ 781, 789 (Fed. Cir. 1983), *cert. denied*, 465 U.S. 1026 [ 224 USPQ 520 ] (1984). The identical invention must be shown in as complete detail as is contained in the patent claim. *Jamesbury Corp. v. Litton Industrial Products, Inc.*, 756 F.2d 1556, 1560, 225 USPQ 253, 256 (Fed. Cir. 1985); *Connell v. Sears, Roebuck & Co*, 722 F.2d 1542, 1548, 220 USPQ 193, 198 (Fed. Cir. 1983). For the following reasons, Applicant requests the Examiner withdraw the rejections.

### Claims 1-4, 5 and 15

Claims 1 to 4 as amended are not anticipated by the disclosure of Gilbert. In the current rejection, the Examiner has relied upon the forwardly directed projection 27 as the attachment portion of Gilbert and the recess 28 as the attachment aperture as previously claimed in claim 1. However, the nature of the elements of Gilbert when compared to the applicant's invention are much different. Notably, the attachment portion of the locking apparatus in the Applicant's device are constructed to allow the attachment portion to be fixed in one portion of the housing whether or not that portion of the housing is joined and aligned. See Specification page 7, lines 11-19 and page 9, lines 19-23. This is also illustrated in figures 16A, 16B and 18. The structure of the cited elements of Gilbert only permit attachment when the halves of the housing are

joined and aligned. See Gilbert, U.S. Patent no 5,121,544, col. 2, lines 51-68. Thus, claim 1 has been amended to clarify this structure. To this end, claim 1 defines the "attachment portion adapted to be fixedly attached in the attachment aperture when the first and second separable portions are joined and aligned and when the first and second separable portions are separated for replacement of a blade,"<sup>1</sup> Accordingly, claims 1-4, as well as dependent claims 5 and 15, are in condition for allowance.

#### Claims 7, 12 and 16-19

Claim 7 as amended is not anticipated by the disclosure of Gringer, U.S. Patent no. 5,813,121. In the current rejection, the Examiner has relied upon the molded spring/blade carrier as disclosed in Fig. 43 of Gringer, U.S. Patent no. 5,813,121. However, the nature of the elements of Fig. 43 when compared to the applicant's invention are much different. Notably, the spring/blade carrier of Fig. 43 does not have a structure that will secure the separable portions of the housing together when they are aligned as with Applicants' current invention. Rather, the spring/blade carrier device of Fig. 43 with its attachment to the housing portions merely allow the blade to be extended and retracted out of and into the utility knife. The locking apparatus of the Applicants' invention is constructed to secure the separable portions of the housing together. See Specification page 8, line 19 to page 9, line 4. Thus, claim 7 defines "a locking apparatus for releasably attaching the first and second portions of the housing to selectively secure the first and second portions of the housing together for use as a handle of the cutting device". For these reasons, Applicant submits that claims 7 and dependent claims 12 and 16-19<sup>2</sup> are in condition for allowance.

#### Claim 13

Claim 13 as amended is similarly not anticipated by the device of the Gringer, U.S. Patent no. 5,813,121. Amended claim 13 defines a "housing lock configured to selectively secure separable portions of the housing together in a closed usable alignment." The spring/blade carrier of Fig. 43 is not such a device. Accordingly, Applicant submits that claim 13 is in condition for allowance.

#### C. Rejections under 35 U.S.C. § 103

The Examiner has rejected claim 14 as being unpatentable over Gilbert, U.S. Patent no 5,121,544, in view of Schmidt, U.S. Patent no. 6,349,473. Applicant requests that the Examiner

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<sup>1</sup> The remaining language amended in the claim is for purposes of improving readability.

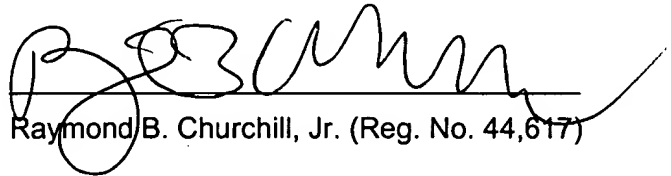
reconsider the rejection in light of the amendment made to claim 14. Notably, Gilbert does not disclose "a plastic locking unit for removably locking the first and second portions of the housing together, the locking unit comprising an attachment portion for being fixedly attached to the first portion of the housing, and a locking arm integrated with the attachment portion, said locking arm adapted to be removably locked to the second portion of the housing." Rather, the locking structures of Gilbert are constructed and formed as various parts that are integrated with the separable housing portions of the utility knife. Gilbert U.S. Patent no 5,121,544, col. 2, line 51 to col. 3, line 64. For this reason Applicant submits that claim 14 is in condition for allowance.

Accordingly, it is submitted that this Amendment now places the application in condition for allowance. Should the Examiner believe that anything further is desirable to expedite allowance of the application, he is invited to contact the undersigned at the telephone number listed below. Early and favorable action is therefore requested.

Respectfully submitted,  
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Date



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<sup>2</sup> New claims 16-19 may be compared with former claims 8-11.